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HOUSE BILL 721

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Jack E. Thomas

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL  
RETIREMENT ACT TO EXTEND THE PERIOD DURING WHICH RETIRED  
MEMBERS MAY RETURN TO WORK, TO REQUIRE ADDITIONAL CONTRIBUTIONS  
ON BEHALF OF RETIRED MEMBERS WHO RETURN TO WORK AND TO PROVIDE  
CERTAIN CONDITIONS BEFORE RETURNING TO WORK; RECONCILING  
MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-11-25.1 NMSA 1978 (being Laws 2001,  
Chapter 283, Section 2, as amended by Laws 2003, Chapter 80,  
Section 1 and by Laws 2003, Chapter 145, Section 1) is amended  
to read:

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS CONTINUED--  
ADMINISTRATIVE UNIT CONTRIBUTIONS.--

A. Except as provided in Subsections B and [E] F of

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1 this section, beginning January 1, 2002 and continuing until  
2 January 1, ~~[2012]~~ 2022, a retired member may begin employment  
3 at a local administrative unit and shall not be required to  
4 suspend retirement benefits if the member has not ~~[been~~  
5 ~~employed as an employee or independent contractor by]~~ rendered  
6 service to a local administrative unit for at least twelve  
7 consecutive months ~~[from]~~ after the date of retirement ~~[to the~~  
8 ~~commencement of employment or reemployment with a local~~  
9 ~~administrative unit]~~. If the retired member returns to  
10 employment without first completing twelve consecutive months  
11 of retirement, the retired member shall remove himself or  
12 herself from retirement.

13 B. A retired member who was retired on or before  
14 January 1, 2001 and has not since suspended or been required to  
15 suspend retirement benefits pursuant to the Educational  
16 Retirement Act ~~[and is reemployed by a local administrative~~  
17 ~~unit may continue employment at the]~~ may, at any time prior to  
18 January 1, 2022, return to employment for a local  
19 administrative unit and shall not be required to suspend  
20 retirement benefits.

21 C. A retired member who returns to employment  
22 during retirement pursuant to Subsection A, ~~[or]~~ B or F of this  
23 section is entitled to continue to receive retirement benefits  
24 but is not entitled to acquire service credit or to acquire or  
25 purchase service credit in the future for the period of the

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1 retired member's reemployment with a local administrative unit.

2 D. A retired member shall not be eligible to return  
3 to employment pursuant to Subsection A, B or F of this section  
4 unless an application to return to work, on a form prescribed  
5 by the board, has been submitted to, and approved by, the board  
6 and the applicant has complied with such other rules as  
7 promulgated by the board.

8 ~~[D.]~~ E. A retired member who returns to employment  
9 pursuant to ~~[Subsections]~~ Subsection A, ~~[or]~~ B or F of this  
10 section shall not make contributions to the fund as specified  
11 in the Educational Retirement Act; however, the local  
12 administrative ~~[unit's contributions as specified in that act~~  
13 ~~shall be paid to the fund as]~~ unit employing the retired member  
14 shall pay to the fund an amount equal to the total of the  
15 member contributions and the local administrative unit  
16 contributions that would be required pursuant to Section  
17 22-11-21 NMSA 1978 if the retired member was a non-retired  
18 employee.

19 ~~[E.]~~ F. Beginning July 1, 2003 and continuing until  
20 January 1, ~~[2012]~~ 2022, a retired member who retired on or  
21 before January 1, 2001, ~~[and who has not been employed as an~~  
22 ~~employee or independent contractor by]~~ who subsequently  
23 voluntarily suspended or was required to suspend retirement  
24 benefits and who has not rendered service to a local  
25 administrative unit for at least ninety days may begin

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1 employment at a local administrative unit without suspending  
2 retirement benefits if the retired member was not employed by a  
3 local administrative unit for an additional twelve or more  
4 consecutive months after the initial date of the retirement;  
5 provided that the ninety-day period shall not include any part  
6 of a summer or other scheduled break or vacation period.

7 G. As used in Subsections A and F of this section:

8 (1) "rendered service to a local  
9 administrative unit" includes employment by a local  
10 administrative unit, whether full or part time; substitute  
11 teaching; voluntarily performing duties for a local  
12 administrative unit that would otherwise be, or in the past  
13 have been, performed by a paid employee or independent  
14 contractor; or performing duties for a local administrative  
15 unit as an independent contractor or an employee of an  
16 independent contractor; and

17 (2) "local administrative unit" includes any  
18 entity incorporated, formed or otherwise organized by, or  
19 subject to the control of a local administrative unit, whether  
20 or not the entity is created for profit or nonprofit purposes."

21 Section 2. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2009.

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